IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

WP(C).No. 35883 of 2004(S)

OA.93/2002 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONER:

P.SURENDRAN, S/O.PADMANABHA PANICKER, TRADESMAN.D. UNDER ORDERS OR TERMINATION, CIVIL PUBLIC HEALTH/ENGINEERING MAINTENANCE DIVISION, VIKRAM SARABHAI SPACE CENTRE, TRIVANDRUM 22, R/A G.C.NO.22/441, AERATH VEEDU, KALADI, KARAMANA P.O. THIRUVANANTHAPURAM.

BY ADV. SRI.M.V.THAMBAN

RESPONDENTS:
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1. THE DEPUTY HEAD, ENGINEERING MAINTENANCE DIVISION (CPH), VIKRAM SARABHAI SPACE CENTRE, THIRUVANANTHAPURAM.

2. THE HEAD, PERSONAL AND GENERAL ADMINISTRATION, VIKRAM SARABHAI SPACE CENTRE, THIRUVANANTHAPURAM.

3. THE CONTROLLER, VIKRAM SARABHAI SPACE CENTRE, THIRUVANANTHAPURAM.

4. THE UNION OF INDIA, REP. BY THE CHAIRMAN AND SECRETARY, INDIAN SPACE ORGANISATION, DEPARTMENT OF SPACE, BANGALORE.

5. CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH, REP. BY ITS REGISTRAR.

BY ADV. SRI.C.N.RADHAKRISHNAN, SR.PANEL COUNSEL
ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 35883/2004 S

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE LETTER NO. VSSC/EMD/CPH/2001 DT. 23/10/2001 BY THE R1.

EXT.P2. COPY OF THE REPRESENTATION DT. 15/11/2001 BY THE PETITIONER TO THE CHAIRMAN.

EXT.P3. COPY OF THE LETTER NO. VSSC/EDM/CPH/22/2001 DT. 20/11/2001 BY THE R1.

EXT.P4. COPY OF THE LETTER DT. 9/1/2002 BY THE R3.

EXT.P5. COPY OF THE ORDER DATED 10/1/2002 BY THE R1.

EXT.P6. COPY OF THE ORDER DT. 19/7/2004 IN OA NO. 93/2002 BY THE CAT, ERNAKULAM BENCH.

EXT.P7. COPY OF THE O.A NO. 93/2002 BY THE PETITIONER BEFORE THE CAT, ERNAKULAM BENCH.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE REPLY STATEMENT BY THE RESPONDENTS AGAINST OA NO. 93/02.

EXT.R1B. COPY OF THE REJOINDER FILED BY THE PETITIONER IN OA NO. 93/02.

EXT.R1C. COPY OF THE ADDITIONAL REPLY STATEMENT FILED BY THE RESPONDENTS AGAINST THE REJOINDER IN OA NO. 93/02.

True copy

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K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 35883 OF 2004-S

Dated 23rd October, 2007.

JUDGMENT

Balakrishnan Nair,J.

The petitioner was working as Tradesman A under the respondents. He joined service on 10.1.1972. He was promoted as Tradesman D from the post of Tradesman A in 1975. Thereafter, he was never promoted. By Ext.P1 communication dated 23.10.2001, he was informed that the general grading in his annual confidential reports for the year 2000 is only fair. Apparently, the said grading is treated as an adverse grading and therefore, he was informed of the same by the above said communication and he was given a chance to represent against it. He filed Ext.P2 representation. The said representation was considered and rejected by the competent authority by Ext.P4 order dated 9.1.2002. On the next day, he was compulsorily retired from service by Ext.P5 order of the competent authority dated 10.1.2002 under Rule 48(1)(b) of the Central Civil Services (Pension) Rules, 1972. The petitioner challenged Ext.P5 by filing Ext.P7 O.A before

the Central Administrative Tribunal, Ernakulam Bench. In the O.A the respondents filed Ext.R1(a) reply statement. The petitioner filed Ext.R1(b) rejoinder. The respondents filed an additional reply statement, which is Ext.R1(c). After hearing both sides, the Tribunal, by Ext.P6 order dismissed the O.A. This writ petition is filed challenging Ext.P6.

2. The petitioner submits, the decision of the competent authority is not a decision taken in public interest. It is vitiated by mala fides. The allegation that the petitioner did not do any work for one year, which led to the entry of adverse remarks in the annual confidential reports, is factually incorrect. So, the petitioner prayed for quashing Exts.P4, P5 and P6.

3. The respondents have filed a counter affidavit, supporting the impugned order.

4. Heard the learned counsel on both sides. We notice that Ext.P5 order does not contain any reason. But, the Tribunal called for the records and found that the petitioner is an inefficient employee and the decision not to retain him in service is fully justified. The relevant portion of the order of the C.A.T reads as follows:

> "9. We have not only gone through the pleadings and materials on record but have also seen the file which contains the review of the applicant's case for his continuance after 30 years of service and the decision taken. On going through the

> file we find that the services of the applicant for the last many years had not been productive and that for the last 25 years he had not gained any promotion although every 3 years he had been reviewed for promotion. We further notice that on many occasions the applicant was not allowed to cross the Efficiency Bar and the general grading had been poor, not fair, etc. With these profile of service, we are of the considered view that the Committee or the Competent Authority cannot be faulted for taking a decision that it may not be in public interest to retain him after 30 years of service."

We notice that in this writ petition no pleadings or grounds have been raised to demolish the above quoted finding of the Tribunal, which is essentially a finding of fact entered after perusing the service records of the petitioner. If the service records present such a picture, there is nothing wrong with the compulsory retirement of the petitioner. On completion of 30 years' service, he will get all the terminal benefits including monthly pension. In view of the finding of the Tribunal quoted above, we notice that Ext.P5 order has been issued in public interest. The allegation of the petitioner that it is

vitiated by mala fides cannot be accepted.

In the result, the writ petition fails and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/